

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

TRUE CHEMICAL SOLUTIONS, LLC,	§
	§
<i>Plaintiff/Counter-Defendant</i>	§
	§ Civil Action No. 7:18-CV-00078-ADA
v.	§
	§
PERFORMANCE CHEMICAL COMPANY,	§
	§
<i>Defendant/Counter-Plaintiff</i>	§ <b>Jury Trial Demanded</b>
	§

---

**TRUE CHEMICAL SOLUTIONS, LLC's OBJECTIONS TO PCC'S  
JURY STATEMENT AND PROPOSED QUESTIONS  
FOR VOIR DIRE EXAMINATION**

True Chemical Solutions, LLC (“True Chem”) hereby submits the following objections to Performance Chemical Company’s (“PCC”) jury statement of claims or defenses for use in connection with *voir dire* (Ex. 8.2 to ECF No. 230) and its proposed questions for *voir dire* examination (Ex. 7.2 to ECF No. 230).

PCC intends to tell the jury pool during *voir dire* that the former employees of PCC have stolen secrets that allow them to unfairly compete with PCC and even steal PCC’s customers. PCC attempts to paint True Chem as unhappy workers who stole secrets from PCC to gain an advantage in the marketplace unfairly. For example, PCC asks this question: “Does anyone believe an employee for a company should be free to use information he learns during his time as an employee to later compete with his former employer?” PCC then escalates to a question that undoubtedly makes the connection between stealing secrets and unfair competition: “An agent learns Coke’s secret formula while working for Coke. The agent later goes to work for Pepsi, and, without Coke’s permission, uses those secrets to help Pepsi improve its product. Do you believe that agent did anything wrong?” PCC attempts to improperly transfer this case from patent infringement to theft of trade secret. Moreover, the follow-up question simply assumes that the ex-employees are in the wrong

and attempts to divert the jurors into selecting whether the ex-employees or Coke is at fault, and simply ignores the possibility that the ex-employees did not steal anything from Coke. PCC asks, “Who should be held accountable, Pepsi, or the agent personally?”

Moreover, In PCC’s Jury Statement, PCC attempts to reinforce the notion that True Chem’s employees have behaved badly by making sure to note that they are ex-employees who not only stole PCC’s secret info but PCC’s customers as well. PCC makes sure to note that “True Chemical Company, is made up of former employees of Performance Chemical who left to start their own company to provide the same services using the same frac trailer design to the same customers (emphasis added).” At the same time, however, PCC seeks to bar True Chem from offering any explanation as to why it left PCC. In other words, PCC wants to create a one-sided narrative that True Chem employees left PCC in order to steal PCC’s technology and steal its customers yet bar those same True Chem employees from providing the jury with their own reasons for leaving PCC. True Chem has filed a motion *in limine* to preclude suggestions “that there is anything unlawful or inappropriate about the circumstances leading to the formation of True Chem or that any individuals who founded True Chem were previously employed by PCC” (See Dkt. No. 246-1 at 2).

True Chem objects to these statements and questions being presented to the jury pool under FRE 402 and 403.

Dated: December 23, 2020

Respectfully submitted,

/s/ Jaison C. John  
 Jaison C. John  
 State Bar No. 24002351  
 jjohn@johnandmorganlaw.com  
 Terry D. Morgan  
 State Bar No. 14452430  
 tmorgan@johnandmorganlaw.com  
 JOHN & MORGAN, P.C.  
 6464 Savoy Dr., Suite 600

Houston, TX 77036  
Telephone: (713) 934-4069  
Facsimile: (713) 934-7011

Masood Anjom  
Texas Bar No. 24055107  
[manjom@azalaw.com](mailto:manjom@azalaw.com)  
Kyung (Drew) Kim  
Texas Bar No. 24007482  
[dkim@azalaw.com](mailto:dkim@azalaw.com)  
Justin Chen  
Texas Bar No. 24074024  
[jchen@azalaw.com](mailto:jchen@azalaw.com)  
**AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING P.C.**  
1221 McKinney Street, Suite 2500  
Houston, TX 77010  
Telephone: (713) 655-1101  
Facsimile: (713) 655-0062

James W. Essman  
State Bar No. 00788771  
[jessman@shaferfirm.com](mailto:jessman@shaferfirm.com)  
Miles R. Nelson  
State Bar No. 14904750  
[mnelson@shaferfirm.com](mailto:mnelson@shaferfirm.com)  
**SHAFER, DAVIS, O'LEARY & STOKER**  
700 North Grant, Ste. 201  
P.O. Drawer 1552  
Odessa, TX 79760-1552  
Telephone: (432) 332-0893  
Facsimile: (432) 333-5002  
**ATTORNEYS FOR PLAINTIFF AND COUNTER DEFENDANT, TRUE CHEMICAL SOLUTIONS, LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was filed electronically in compliance with Local Rules CV-5(b) on December 23, 2020. As such, this document was served on all counsel of record pursuant to Local Rules CV-5(b)(1) and the Federal Rules of Civil Procedure.

*/s/ Jaison C. John*  
Jaison C. John